



February 11, 2005

SENATE BILL No. 267

DIGEST OF SB 267 (Updated February 9, 2005 5:32 pm - DI 14)

Citations Affected: IC 32-30.

Synopsis: Agricultural nuisance actions. Specifies that certain changes to an agriculture operation are not a nuisance.

Effective: July 1, 2005.

Jackman, Hershman

January 6, 2005, read first time and referred to Committee on Agriculture and Small Business.

February 10, 2005, amended, reported favorably — Do Pass.

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SB 267—LS 6927/DI 77+



February 11, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 267

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-30-6-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section does
3 not apply if a nuisance results from the negligent operation of an
4 agricultural or industrial operation or its appurtenances.

5 (b) The general assembly declares that it is the policy of the state to
6 conserve, protect, and encourage the development and improvement of
7 its agricultural land for the production of food and other agricultural
8 products. The general assembly finds that when nonagricultural land
9 uses extend into agricultural areas, agricultural operations often
10 become the subject of nuisance suits. As a result, agricultural
11 operations are sometimes forced to cease operations, and many persons
12 may be discouraged from making investments in farm improvements.
13 It is the purpose of this section to reduce the loss to the state of its
14 agricultural resources by limiting the circumstances under which
15 agricultural operations may be deemed to be a nuisance.

16 (c) For purposes of this section, the continuity of an agricultural or
17 industrial operation shall be considered to have been interrupted when

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the operation has been discontinued for more than one (1) year.

(d) An agricultural or industrial operation or any of its appurtenances is not and does not become a nuisance, private or public, by any changed conditions in the vicinity of the locality after the agricultural or industrial operation, as the case may be, has been in operation continuously on the locality for more than one (1) year if **the following conditions exist:**

(1) ~~There is no significant change in the hours of operation:~~

~~(2) (1) There is no significant change in the type of operation. and~~
A significant change in the type of agricultural operation does not include the following:

(A) The conversion from one type of agricultural operation to another type of agricultural operation.

(B) A change in the ownership or size of the agricultural operation.

(C) The:

(i) enrollment; or

(ii) reduction or cessation of participation;

of the agricultural operation in a government program.

(D) Adoption of new technology by the agricultural operation.

~~(3) (2) The operation would not have been a nuisance at the time the agricultural or industrial operation began on that locality.~~

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SENATE MOTION

Madam President: I move that Senator Hershman be added as coauthor of Senate Bill 267.

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COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Senate Bill No. 267, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, strike line 8.

Page 2, line 9, strike "(2)" and insert "(1)".

Page 2, line 22, strike "(3)" and insert "(2)".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 267 as introduced.)

NUGENT, Chairperson

Committee Vote: Yeas 9, Nays 1.

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